

March 17, 2008

STATEMENT OF GOVERNOR HALEY BABOUR

SENATE BILL 2988

Today, I have signed into law SB 2988, a bill designed to discourage illegal immigration in Mississippi by creating new penalties for hiring illegal immigrants. I appreciate the efforts of Lieutenant Governor Phil Bryant and others in the House and Senate who have worked so hard on this issue.

Any employer who knowingly hires an illegal alien should be held accountable, and that is the goal of SB 2988. While I have signed this legislation into law, I have serious concerns about specific provisions of the bill that could have unintended negative consequences. I urge the Legislature to make the necessary technical changes to ensure this bill will have the intended effect.

Senate Bill 2988 mandates that employers utilize the federal E-Verify program administered by the Department of Homeland Security. I am concerned about mandating the E-Verify system as the sole source from which an employer in Mississippi can verify a potential employee's eligibility, especially since the federal government itself has said E-Verify is not a reliable system. According to a 2006 Report prepared for the United States Department of Homeland Security: *"The accuracy of the U.S. Citizenship and Immigration Service (USCIS) database used for verification has improved substantially since the start of the Basic Pilot program. However, further improvements are needed, especially if the Web Basic Pilot becomes a mandated national program – improvements that USCIS*

personnel report are currently underway. Most importantly, the database used for verification is still not sufficiently up to date to meet the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) requirements for accurate verification, especially for naturalized citizens. USCIS accommodates this problem by providing for manual review that is time consuming and can lead to discrimination against work-authorized foreign-born persons during the period that the verification is ongoing, especially naturalized citizens.” Mississippi’s economy is growing; we have record employment. We don’t want citizens or others legally here to lose jobs because the verification system is technologically flawed. I urge the Legislature to add other reliable verification systems beyond E-Verify to confirm the hiring eligibility of potential employees.

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The requirements to use E-Verify to determine the eligibility of potential new employees is phased-in, depending on the businesses’ number of employees. Smaller businesses are not required to use the federal program until ____; however, SB2988 creates the employers’ use of E-Verify as an absolute defense against such a suit brought by a former employee, as it should. But the bill does not make plain that the smaller employers are immune from these private suits until the mandate to use E-Verify goes into effect for employers in their size category. It should be made plain that small employers are exempt from and will be held harmless from the private litigation referred to in Section ____ until such time as they are required to use the E-Verify system under the statute’s timetable in Section 7(b).

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Also, while the intent of SB 2988 is to hold employers accountable for its actions, the term “employing entity” is used in certain places without being defined. I ask the Legislature to clarify that an “employing entity” in this bill is the entity that is the employer of the employee found to be an illegal immigrant.

Employers are understandably concerned when government applies new regulation to their businesses, especially when these new regulations provide for powerful penalties, even including loss of current contracts ~~s~~ or ~~a~~ license to do business in our state. Employers, therefore, can be expected to be very cautious in hiring with the sword of these penalties hanging over their heads.

It is, therefore, very important that the law be written clearly and be interpreted predictably. SB2988 falls short of that standard, and it also limits compliance to a system of verification that even its provider, the U.S. Government, says is insufficiently reliable.

I look forward to working with the Legislature this session to make ~~these~~ these greatly ~~needed~~ technical amendments.

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